

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

SAILOR MUSIC, et. al.,)
)
Plaintiffs,)
)
vs.) Case No. 4:10CV01110 AGF
)
TWISTER'S IRON HORSE SALOON,)
L.C., APRIL TWIST, and DOUGLAS)
WALKER,)
)
Defendants.)

MEMORANDUM AND ORDER

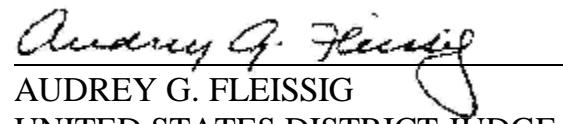
This matter is before the Court on Plaintiffs' Motion for Default Judgment against Defendant Twister's Iron Horse Saloon, L.C. ("Twister's"). Plaintiff brought this action seeking damages and injunctive relief for the alleged copyright infringement resulting from the unauthorized playing of licensed music at a place of public entertainment operated by the three named Defendants -- one corporation (Twister's) and two individuals. One of the individual Defendants answered the complaint and on August 17, 2010, the Clerk of Court entered default against the corporate Defendant and the other individual Defendant. On September 30, 2010, Plaintiffs filed the present motion for default judgment against the two parties in default.

Thereafter, the default judgment was set aside as against the individual Defendant who had been in default, and the Court denied the motion for default judgment as to that Defendant, who then filed an answer. The Court now denies the motion for default judgment without prejudice as to the corporate Defendant to avoid the possibility of

inconsistent results in this case. See Angelo Iafrate Const., LLC v. Potashnick Const., Inc., 370 F.3d 715, 722 (8th Cir. 2004) (“When co-defendants are similarly situated, inconsistent judgments will result if one defendant defends and prevails on the merits and the other suffers a default judgment.”); Edwards v. Dwyer, 1:06-CV-00001 CAS, 2008 WL 222514, at *1-2 (E.D. Mo. Jan. 25, 2008) (denying motion for default judgment without prejudice as to one defendant in a multiple-defendant case, where the claims against similarly-situated non-defaulting defendants were not yet resolved).

Accordingly,

Plaintiffs’ Motion for Default Judgment against Defendant Twister’s Iron Horse Saloon, L.C., is **DENIED** without prejudice. [Doc. #21]


AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE

Dated this 8th day of October, 2010.